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EXAMINER

CULBRETH, E

ART UNIT PAPER NUMBER

2

ROBERT S. NISBETT  
311 ANNIVERSARY DRIVE  
LONGVIEW, TX 75604

3106

DATE MAILED:

11/23/92

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

This application has been examined  Responsive to communication filed on \_\_\_\_\_  This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), 0 days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

**Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:**

1.  Notice of References Cited by Examiner, PTO-892.
2.  Notice re Patent Drawing, PTO-948.
3.  Notice of Art Cited by Applicant, PTO-1449.
4.  Notice of Informal Patent Application, Form PTO-152.
5.  Information on How to Effect Drawing Changes, PTO-1474.
6.  \_\_\_\_\_

**Part II SUMMARY OF ACTION**

1.  Claims 1-7 are pending in the application.

Of the above, claims \_\_\_\_\_ are withdrawn from consideration.

2.  Claims \_\_\_\_\_ have been cancelled.

3.  Claims \_\_\_\_\_ are allowed.

4.  Claims 1-7 are rejected.

5.  Claims \_\_\_\_\_ are objected to.

6.  Claims \_\_\_\_\_ are subject to restriction or election requirement.

7.  This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8.  Formal drawings are required in response to this Office action.

9.  The corrected or substitute drawings have been received on \_\_\_\_\_. Under 37 C.F.R. 1.84 these drawings are  acceptable.  not acceptable (see explanation or Notice re Patent Drawing, PTO-948).

10.  The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_ has (have) been  approved by the examiner.  disapproved by the examiner (see explanation).

11.  The proposed drawing correction, filed on \_\_\_\_\_, has been  approved.  disapproved (see explanation).

12.  Acknowledgment is made of the claim for priority under U.S.C. 119. The certified copy has  been received  not been received  been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_

13.  Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14.  Other \_\_\_\_\_

**EXAMINER'S ACTION**

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PART III - DETAILED ACTION

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.
2. The drawings are objected to because reference numeral 39 (Figures 7-8) refers to both the bellows and part of a bellows, which is improper. In Figure 9, the parts represented by numerals 54, 56, and 58 are not illustrated clearly. No new matter should be entered in overcoming the rejection. Correction is required.
3. The Abstract of the Disclosure is objected to because (legal phraseology "comprises" in line 4) should not be used. Correction is required. See M.P.E.P. § 608.01(b).
4. The disclosure is objected to because of the following informalities: The last paragraph of page 4 is an incomplete sentence. The summary of the invention is too long. On page 13, line 7, "spring" should be "springs". On page 13, line 6 from the end, "vertical" is misspelled. On page 17, line 15, "32" should be "33" and "gauge" is misspelled. On page 18, next to last line and page 20, next to last line, "preferably" is misspelled. Appropriate correction is required.
5. Regarding pages 3-4, it is now improper to incorporate a list of references in the specification (see 37 CFR 1.98). The

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material should be cancelled from the specification. For proper consideration, the list should be filed on a separate paper, along with copies of each reference and a description of relevance for each reference, as per 37 CFR 1.98.

6. Claims 1-7 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 should begin with a capital letter and end with a period (i.e., "An" in line 5 should not be capitalized, and a period should not follow "(a)"). The claims should be carefully reviewed. Throughout the claims, there is lack of antecedent basis (i.e., in line 6, there is no antecedent basis for "the front leaf"; nor for "the vertical center line" and "the frame" in line 7; nor for "said air bellows spring" in line 9, as "spring means" was previously recited). The claims should be carefully reviewed and rewritten, and antecedent basis supplied for all parts. Claims 1(a) is unclear (something has apparently been omitted after "tractor").

7. The drawings are objected to under 37 C.F.R. § 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the adjustable pivot point (claim 7) must be shown or the feature cancelled from the claim. No new matter should be entered.

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8. The following is a quotation of the first paragraph of 35 U.S.C. § 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The specification is objected to under 35 U.S.C. § 112, first paragraph, as failing to provide an adequate written description of the invention.

The adjustable pivot point (fifth wheel) has not been described in an enabling manner. No new matter may be entered in overcoming the rejector.

9. Claim 7 is rejected under 35 U.S.C. § 112, first paragraph, for the reasons set forth in the objection to the specification.

10. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same

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person.

11. Claims 1-6, as best understood, are rejected under 35 U.S.C. § 103 as being unpatentable over Selzer et al in view of Harbers et al and Pribonic et al.

Selzer et al teach a tractor 80 which conventionally has a fifth wheel with bellows 28 between leaf springs 14 and frame 24. Harbers et al teach a top U-shaped bracket 108, 108, 102 on a frame 14 and a lower plate 76 with flanges 88, 88 for mounting a bellows. Pribonic et al teaches means 132 inside the cab for adjusting valve 38 for source 40. It would have been obvious to one of ordinary skill in the art to modify Selzer et al to include a top mounting bracket and lower plate such as taught by Harbers et al in order to mount the bellows and to include means for adjusting the air pressure inside the cab as taught by Pribonic et al in order to allow the driver to adjust the ride. The size and pressure of the bellows is an obvious matter of design choice (claim 3), as it is obvious to optimize values for a situation (In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980)).

In the combination Pribonic et al teach (claim 4) attaching bellows 34 rearward of axle 20. Harber et al's plate 76 would be on top of leaf spring 57 behind the axle. Harbers et al's plate 76 (claim 5) is independent of U-bolt 34 in the combination, and extends the diameter of the bellows (claim 6).

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12. Claim 7, as best understood, is rejected under 35 U.S.C. § 103 as being unpatentable over Selzer et al in view of Pribonic et al and De Lay.

Selzer et al in Pribonic et al do not teach an adjustable pivot point. It would have been obvious to one of ordinary skill in the art to modify Selzer et al to include an operator adjustable bellows behind the axle as taught by Pribonic in order to adjust the ride and as alternative attachment location and to include an adjustable fifth wheel as taught by De Lay in order to equalize load.

13. Granning shows U-shaped brackets and plates for a bellows.

Assh shows pneumatic bellows on a leaf spring.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Culbreth whose telephone number is (703) 308-0360.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1113.

Culbreth/mm  
November 17, 1992  
November 20, 1992

*Eric Culbreth*  
ERIC D. CULBRETH 11/23/92  
EXAMINER  
ART UNIT 316